

**REGULAR CITY COUNCIL MEETING  
FRISCO MUNICIPAL COMPLEX  
8750 MCKINNEY ROAD  
COUNCIL CHAMBERS  
FRISCO, TEXAS 75034  
5:30 P.M.**

**October 21, 2003**

**MINUTES**

**1. Call to Order.**

Mayor Simpson called the Meeting to order at 5:30 p.m. and announced a quorum was present.

Those present representing the Council were: Mayor Simpson, Mayor Pro-Tem Maso, Deputy Mayor Pro-Tem Lafata, Council member Allen, Council member West, Council member Joyner, and Council member Felker.

Those present representing Staff were: City Manager George Purefoy, Deputy City Manager Henry Hill, Assistant City Manager Scott Young, Assistant City Manager Jason Gray, Director of Planning & Development John Lettelleir, Director of Engineering Cissy Sylo, City Attorney Julie Fort, City Secretary Nan Parker, Fire Chief Mack Borchardt, Director of Subdivision Scott Ingalls

**2. Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code**

Council member Joyner moved to recess into Closed Session at 5:35 p.m. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0. Mayor Simpson announced the Council was in Closed Session at 5:35 p.m. to wit:

- a). Section 551.087. Deliberation regarding commercial or financial information that the City has received from a business prospect and to deliberate the offer or other incentives to a business prospect.
- b.) Section 551.072. To deliberate the purchase, exchange, lease or value of real property located:
  - ii. south of Eldorado Parkway, north of Stonebrook Parkway, east of Teel Parkway, and west of SH 289;
  - iii. south of FM 3537, north of Warren Parkway, east of Dallas North Tollway, and west of Hillcrest Road.
  - iv. south of Main Street, north of Lebanon Road, east of Teel Road, and west of Dallas North Tollway, and

v. northeast corner of Rolater Road and Independence Parkway  
c) Section 551.071. Meeting with City Attorney regarding a matter(s) in which the duty of the City Attorney under the Texas Disciplinary rules of Professional Conduct of the State Bar of Texas conflicts with the Open Meetings Act regarding:

- i. boundary issues with McKinney and The Colony, and,
- ii. Cause No. 5-643-02; City of Frisco, Texas vs. H. Roger Lawler and Frisco Master Plan, L.P., in County Court at Law No. 5, Collin County, Texas

**3. Reconvene into Regular Session and take any action necessary as a result of the Closed Session.**

Council member West moved to Reconvene into Regular Session at 6:50. Council member Allen seconded the Motion. Motion carried. Vote: 6-0. There was no action taken as a result of the Regular Session.

**4. Proclamations:**

Mayor Simpson presented Proclamations on the following:

National Bible Week  
Red Ribbon Week for FISD

**5. Invocation:**

Nathan Ellison of the Church of Latter Day Saints gave the Invocation.

**6. Pledge of Allegiance:**

The Pledge was led by Wolverine Patrol from Cub Scout Pack 282.

**7. Citizen Input.**

- Isabel Sems was present to address the Council regarding the Plant-A-Tree.
- Members of the Frisco Church of Jesus Christ of Latter-Day Saints were present to invite the Council and the Community to the Second Annual Nativity Exhibit to be held on December 12<sup>th</sup> and 13<sup>th</sup>.

**8. Reports.**

- a) Presentation on Collin County Bond Election by Commissioner Phyllis Cole
- b) Presentation of a Grant for Frisco's Cultural Arts presented to Frisco Association for the Arts by Target Corporation

- c) Public Works Monthly Report
- d) Tax Department Monthly and End-of-Year Reports
- e) Preston Road Overlay District Update (Parks and Recreation)
- f) Building Permit and Code Enforcement Reports
- g) Police Department Monthly Report
- h) Project Status Tracking Reports

Discussion only, no formal action was taken.

## **9. Consent Agenda**

The Consent Agenda was considered for approval. Council member Joyner moved to pull item A for separation discussion. Council member Felker seconded the Motion. Motion carried. Vote: 6-0. Council member Allen moved to approve the Consent Agenda. Council member Felker seconded the Motion. Motion carried. Vote: 6-0.

### **A) Approval of the Minutes of the October 7, 2003 Regular City Council Meeting and the Minutes of the September 30, 2003 Work Session with the Planning and Zoning Commission and the Frisco Economic Development Corporation Board of Directors. (City Secretary)**

Council member Joyner stated that he thought there was an error on the monitoring from the last meeting. The minutes reflected that Council member Joyner monitored the meeting and he believed that it was monitored by Mayor Pro-Tem Maso. Ms. Parker will review the tape and make corrections.

John Lettelleir stated there were staff members present that were not mentioned in the special called minutes of the September 30<sup>th</sup> City Council and Planning & Zoning Commission. Ms. Parker will add the requested staff names.

B) Approval of an Agreement for a \$5,000.00 Neighborhoods Program grant by and between the Texas Forest Service, the USDA Forest Service, and the City of Frisco and adopt **Resolution No. 03-10-198R** authorizing the City Manager to execute the Agreement. (Parks and Recreation)

C) Approval of a professional services contract by and between the City of Frisco and Carter & Burgess, Inc. for the preparation of Construction Documents for Warren Sports Complex Phase V in the amount of \$25,420.00. (Parks and Recreation) **Resolution No. 03-10-199R**

D) Approval of a professional services contract by and between the City of Frisco and Carter & Burgess, Inc. for a topographic survey of Warren Sports Complex in the amount of \$2,200.00. (Parks and Recreation) **Resolution No. 03-10-200R**

E) Approval of the purchase of fourteen (14) traffic signal cabinets from Naztec, Inc. in the amount of \$83,930.00. (Engineering)

F) Approval of an Agreement for Engineering and Design Services by and between the City of Frisco and HNTB Corporation for the design of Lebanon Road, approximately from Legacy Road to Starwood Drive in the amount of \$48,704.00 and adopt **Resolution No. 03-10-201R** therein authorizing the City Manager to execute the Agreement. (Engineering)

G) Approval of Change Order Number 2 for the Cottonwood Branch Sewer to John Burns Construction in the amount of \$27,500.00. (Engineering)

H) Adoption of **Resolution No. 03-10-202R** therein authorizing Acclaim Benefits as the City of Frisco IRC 125 Plan administrator and adopting a required IRS regulations. (Human Resources)

I) Adoption of **Resolution No. 03-10-203R** therein authorizing the City Manager to enter into an Agreement by and between the City of Frisco and eCivis.com, LLC for on-line grant locator services in the amount of \$7,500.00. (City Manager's Office/AG)

## **END OF CONSENT AGENDA**

### **Regular Agenda:**

**10. Consider and act upon approval of an Advanced Funding Agreement for SH 121 improvements between the Dallas North Tollway and Custer Road by and between the State of Texas, Collin County, the City of Plano, and the City of Frisco and adoption of a Resolution authorizing the City Manager to execute the Agreement. (City Manager's Office/SY)**

Representative of TxDot was present to address the Council regarding construction on SH 121. He stated that there would be construction on SH 121 for a minimum of the next two years.

Council member Allen moved to adopt **Resolution No. 03-10-204R** therein approving the Advanced Funding Agreement for SH 121 improvements between the Dallas North Tollway and Custer Road by and between the State of Texas, Collin County, the City of Plano, and the City of Frisco and authorizing the City Manager to sign the same. Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 6-0.

**11. Public Hearing regarding Frisco's participation in the regional Arts District. (City Council)**

Deputy Mayor Pro-Tem Lafata moved to open the Public Hearing. Council member Felker seconded the Motion. Motion carried. Vote: 6-0.

Sonny Moyers was present to speak in favor of Frisco's participation in the regional Arts District. He stated that he had never "hung his hat" on the idea of a four (4) city Arts District.

Erwin Pink was in favor of a re-vote on the Arts District due to the initial presentation to the voters for a four (4) city Arts Center.

Linda Pardue encouraged the Council to move forward with the sale of the bonds and proceed with the construction of the Arts Center.

Bob Chambers stated the issue tonight was to speak on the bond issue that was presented to the citizens by the Bond Committee, Council and Staff. He stated that the credibility of the Council, Staff and the members of the Bond Committee are at risk. He stated that the three cities (Frisco, Plano and Allen) were not what were presented to the voters of the City. He asked that the Council do the ethical thing and present it again in an election. He asked Council to trust the voters.

Larry Katzan stated that he voted for the Arts District for \$19 million. He stated that he felt the City should move forward. He felt that he voted for an "Arts District", regardless of how many cities agreed.

Glendy Valdez spoke in favor of the Arts District and felt that we should move forward with plans as a three-city agreement.

Kathy Seei spoke in favor of the Arts District and felt that the voters should moved forward with the Arts District. She stated that we needed a "balanced community". She stated that she would hate that if something she wrote would hinder the plan. She predicted that if the Council does not move forward with the Arts District that the City would lose this project.

Isabel Sems stated that when she served on the Bond Committee she was aware that they had told the citizens that the Arts District was going to be a four (4)-city project. She said she wanted us to find a solution to make the Arts District work.

Nathan Ellis stated that he was in favor of moving forward with the Arts District without a revote. He stated that it is obvious that the benefits are clear.

Cindy Willman stated the issue is not if citizens want an Arts District, but what the citizens were told. She stated that the project was presented as a partnership of four (4) cities. She said that as a member of the Bond Committee and a member of the For Frisco '02 SPAC that they told the citizens in Frisco that it was "an all or nothing" bond issue. She stated that they told citizens that if another city

pulled out of the bond issue, that the City of Frisco would not be participating. She said that this has become an issue of integrity. She stated that legally and technically the issue could proceed forward but morally the City should do what is right.

Chris Moss thanked the Council for addressing the issue head-on. He encouraged the Council to move forward with the Arts District without conducting another Bond Election.

Deputy Mayor Pro-Tem Lafata moved to close the Public Hearing. Council member Felker seconded the Motion. Motion carried. Vote: 6-0. Deputy Mayor Pro-Tem Lafata moved to rescind his motion to close public hearing. Council member Felker seconded the Motion. Motion carried. Vote: 6-0.

Mayor Pro-Tem Maso moved to **continue the Public Hearing** until November 4<sup>th</sup>. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

Mayor Simpson stated that he had reviewed the Town Hall Meeting tape and he stated that during the meeting he had said that if Allen or McKinney decide to not to participate in the Regional Arts District then Frisco will not participate in the Arts District.

Council member Felker stated that, although while he was not on the City Council during the election, he felt the Council should go back for a re-vote due to the potential loss of trust of the citizens.

Council member Joyner stated that as Chairman of the Bond Committee they stated that if all of the cities (Frisco, Allen, McKinney and Plano) did not participate, then the City would not sell the \$19million bonds for the Arts Center. He stated that he felt that it should go back to voters.

Deputy Mayor Pro-Tem Lafata stated that he felt the Council should move forward at this time. He stated that he whole-heartedly supported moving forward at this time.

Mayor Pro-Tem Maso stated that early on he promoted the project as a four (4) city project. He stated that as a member of the Arts Steering Committee he did not promote the project as a four (4) city project, they (Steering Committee) had always planned on the project being phased. He stated that the Mayors of Allen and Plano want to continue to move forward now. He stated that he is not ready to make a decision at this time.

Council member West stated that she had promoted the Arts District but that she had never promoted it as a four (4) city project. She stated that the right thing in her heart is to move forward.

Council member Allen had no comment under Item 11.

**12. Consider and act upon giving staff direction regarding Frisco's participation in the regional Arts District. (City Council)**

Council member Allen stated that he would like time to evaluate a number of issues and would like questions to those issues:

- When would the bonds be sold?
- How would the Council, making a decision tonight, make a difference at the time when the bonds are sold 2 years from now, knowing that a different Council may be present in the future?
- What is the relevancy of making the decision tonight?
- What is the likelihood of a revote and its outcome?
- Cost associated with the re-vote?

Steve Matthews, Chairman of the Collin County Arts Steering Committee, was present to speak to the Council. He stated the bulk of the bonds were to be sold in 2006.

Council member Allen stated that he is in support of the Arts. He stated that he is not convinced that lack of action tonight would make the "deal die". He stated that he has seen no facts that the support of the project would fail if a re-vote in February would make the project fail. He would like to see a way to go forward, put it up for a revote and still be able to achieve what we want to achieve.

Mayor Pro Tem Maso moved to **table to November 4, 2003**. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

**13. Public Hearing: Zoning Case Z03-0025, A request to rezone 1.0+ acre at the southeast corner of Hickory Street and Fifth Street from Agricultural to Office-1 and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #20. Applicant(s): Windsor Staff Management. (Planning & Development)**

Deputy Mayor Pro-Tem Lafata moved to open the Public Hearing. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

There being no one else present to speak for or against the request, Deputy Mayor Pro-Tem Lafata moved to close the Public Hearing. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

Deputy Mayor Pro-Tem Lafata moved to approve the request subject to the adoption of the ordinance. Council member Allen seconded the Motion. Motion carried. Vote: 6-0.

**14. Public Hearing: Specific Use Permit SUP03-0007, A request for a Specific Use Permit for a Child Day Care Center on 0.7± acres on the south side of Lebanon Road, 289+ feet west of Ohio Drive. Zoned Commercial-1 and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #29. Applicant(s): Kiddin' Around Frisco, L.P. (Planning & Development)**

Council member West moved to open the Public Hearing. Council member Felker seconded the Motion. Motion carried. Vote: 6-0. John Lettelleir stated the Planning and Zoning Commission had granted a Specific Use Permit that would limit occupancy of fifty (50) children. The P&Z gave 8:30 a.m. – 10:00 p.m. on Monday – Thursday and 8:30 a.m. – Midnight on Friday and Saturday.

Jeff Jones, owner and developer of the project, was present to request the Council's approval. He stated that their business is a drop-in facilities and thirty-six percent (36%) of their clientele are dropped off at night and therefore they do not need the required outdoor space, they will have a large indoor recreation space. Mr. Jones stated that he would not be able to operate with a maximum occupancy of fifty (50) children. He stated that there will be no curriculum in the facility, it is a drop off facility only.

There being no one else present to speak for or against the request, Council member West moved to open the Public Hearing. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

Mayor Pro-Tem Maso moved to approve the request subject to:

- Maximum Occupancy of Ninety-six (96) children
- The operating hours are 8:30 a.m.- 10:00 p.m. Monday through Thursday and Friday and Saturday from 8:30 a.m. – Midnight
- SUP is for 2 years with review prior to a renewal
- "Intended Use" will be listed as a "Drop In Facility" only
- Adoption of the Ordinance granting the Specific Use Permit

Deputy Mayor Pro-Tem Lafata seconded the Motion. Voting for: Council member West, Mayor Pro-Tem Maso, Deputy Mayor Pro-Tem Lafata, Council member Joyner and Council member Felker. Voting Nay: Council member Allen. Motion carried. Vote: 5-1.

**15. APPEAL: Public Hearing: Zoning Case Z03-0023, A request to rezone 33.3+ acres on the south side of Witt Road, 1,300+ west of F.M. 423 from Agricultural to Single Family-5 and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #43. Applicant(s): City of Frisco. (Planning & Development)**



Council member Allen moved to open the Public Hearing. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

There being no one else present to speak for or against the request, Council member West moved to close the Public Hearing. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

Council member Allen moved to approve the request subject to adoption of the ordinance. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

**16. Public Hearing: Zoning Case Z03-0027, A request to amend zoning exhibits "A" and "D" for Planned Development-157-Single Family-5/Retail on 611.6± acres located on the north side of Eldorado Parkway, 1,400± feet east of F.M. 423 and consider and act to instruct staff to prepare an Ordinance of the same. Neighborhood #49. Applicant(s): Buescher Homes. (Planning & Development)**

Council member West moved to open the Public Hearing. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

Council member West moved to close the Public Hearing. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

Council member Joyner moved to approve the request subject to adoption of the Ordinance. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

**17. Consider and act upon renaming Gary Burns Drive to Hutson Road, east of Preston Road. (City Council)**

Audie Adkins, representing the Chamber of Commerce, spoke in favor of naming the road east of Preston Road to Hutson Drive.

J.L. Hutson requested the Council name the road Hutson Drive. He stated that they have made improvements to the road several times.

Council member Felker moved to rename the road east of Preston Road to Hutson Drive. Council member Joyner seconded the Motion. Motion carried. Vote: 6-0. An ordinance will come back in the future.

**18. Consider and give staff direction on amending the Sign Code Ordinance. Ordinance # 02-04-46. (Planning & Development)**

Chris Moss was present to address the Council regarding the Sign Code Ordinance. He stated that he had problems with "Wall Signs" to protrude above the roofline; and the "definition of a religious organization". He stated that he did not mind the temporary signs, but he did not like the change to permanent religious stake signs.

The Council questioned the political signs being expanded. The Council was told that Legislature made the change in the last session. The Council requested a copy of the adopted Bill.

Council member Allen asked if cloud buster balloons would be allowed. John Lettelleir stated that the cloud buster balloons would not be permitted.

Council member West moved that this item be **tabled to November 4, 2003**. Council member Allen seconded the Motion. Motion carried. Vote: 6-0.

**19. Consider and act on issuing a letter of support for a tax-exempt multi-family bond program for a senior housing development on a 10+ acre tract that is zoned Multifamily-1 on the south side of Stonebrook Parkway at Crestline Circle. (Planning and Development)**

John Lettelleir stated that the applicant agreed to zone the land under a Planned Development. The applicant stated they would not seek tax-exempt status for this property. Mr. Lettelleir stated that the applicant has not come forward with plans nor have they conducted a public hearing or met with surrounding property owners. Mr. Lettelleir recommended the City submit a non-committal letter to Judge Harris and the Texas Department of Housing.

Mayor Pro-Tem Maso moved to send a letter, stating that the City is non-committal and will conform to the City's Master Plan. Council Member Allen seconded the Motion. Motion carried. Vote: 6-0. John Lettelleir will draft a letter to send to the Council for their approval prior to mailing the letter.

**20. Discussion and act regarding October 7, 2003 Board appointments to the Planning and Zoning Commission and Frisco Economic Development Corporation. (City Council/JW)**

Council member West asked about a policy for mid-term appointments. The Governance Subcommittee would like to know the direction that Council would like them to go.

Tracie Reveal was present to address the Council regarding board appointments that had been practiced in the past and stated that she felt a consistent procedure should be adopted to prevent confusion in the future.

Chris Moss stated that he felt that the appointment of Dave Wilcox was disappointing because Mr. Wilcox is a realtor. Mr. Moss was told that Dave Wilcox is no longer employed by Henry S. Miller, Realtor.

Discussion only, no formal action was taken.

**21. Adoption of a Resolution authorizing the City Manager to enter into Agreement by and between the City of Frisco and L.B. Eaton for the purchase of real property located at the northeast corner of Rolater Road and Independence Parkway. (City Manager)**

Council member Allen moved to adopt **Resolution No. 03-10-205R**, subject to **changing the correct legal description** to be placed on the November 4, 2003 meeting and ratification of the resolution on the Consent Agenda. Council member West seconded the Motion. Motion carried. Vote: 6-0.

**22. Approval of a Reimbursement Agreement by and between the City of Frisco and Frisco Economic Development Corporation for construction of a portion of Legacy Drive and adoption of a Resolution authorizing the City Manager to execute the Agreement. (City Manager's Office/SY)**

Council member Allen stepped down from the table due to a previous vote on the Agreement at the EDC Meeting.

Assistant City Manager Scott Young reviewed the Reimbursement Agreement.

Mayor Pro-Tem Maso moved to adopt **Resolution No. 03-10-206R** therein authorizing the City Manager to execute the approved Reimbursement Agreement by and between the City of Frisco and Frisco Economic Development Corporation for construction of a portion of Legacy Drive. Council member West seconded the Motion. Motion carried. Vote: 5-0

**23. Adoption of Agreement for Dedication by and between the City of Frisco and Christie Ranch Community Developers, L.P. for Right-of-Way of Teel Parkway and adoption of Resolution authorizing the City Manager to execute the Agreement. (City Manager's Office/SY)**

Richard Abernathy asked that items 23, 24 and 25 be tied together because they are connected to the same developer. Mayor Pro-Tem Maso moved to approve Items 23, 24 and 25, therein adopting **Resolution 03-10-207R**. Deputy Mayor Pro-Tem Lafata seconded the Motion. Motion carried. Vote: 6-0.

**24. Consider and act upon adoption of a First Amendment to Development Agreement by and between the City of Frisco and Eldorado Ranch, Ltd. and adoption of a Resolution authorizing the City Manager to execute the Agreement. (City Manager's Office/SY)**

Adoption of **Resolution 03-10-208R.** (See Agenda Item 23)

**25. Adoption of a Fourth Amendment to Development Agreement by and between the City of Frisco and Panther Creek Ventures, Ltd. for method for distribution of funds with Panther Creek Estates Public Improvement District No. 1 and adoption of a Resolution authorizing the City Manager to execute the Agreement. (City Manager's Office/SY) – PID NO. 1 NOTEBOOK**

Adoption of **Resolution 03-10-209R.** (See Agenda Item 23)

**26. Adoption of a Real Property Exchange Agreement by and between the City of Frisco and CCIM 1 partnership and adoption of a Resolution authorizing the City Manager to execute the Agreement. Tabled 09/16/03, 10/07/03 (City Manager's Office/SY)**

Assistant City Manager Scott Young requested the item remain on the table.

Deputy Mayor Pro-Tem Lafata moved to **continue the table until November 4, 2003.** Council member Joyner seconded the Motion. Motion carried. Vote: 6-0.

**27. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the City Council to the Planning & Development Department, pursuant to Article IV, Section 1.07(C) of the Comprehensive Zoning Ordinance and/or Section 4.05 of the Subdivision Regulation Ordinance, regarding action taken by the Planning & Zoning Commission on any site plan or plat. Any written notice of appeal must be submitted to the Planning & Development Department.**

No items were appealed.

**28. City Council discussion with City Staff concerning any actions required by City Staff as a result of any item on tonight's agenda.**

- Public Hearing on the Arts District at the November 4, 2003 Meeting
- Schedule a work session with the Arts District Steering Committee and the Mayors of the other cities
- Council member Allen asked that staff and the Steering Committee reply to his questions regarding the Arts District (see Regular Agenda Item 11)

- Schedule a joint work session with the FEDC
- Board Appointments Discussion to come back November 18, 2003
- Richard Abernathy will provide State Statues regarding Signs to all Council Members

**29. Discussion on Governance Monitoring of present City Council Meeting.**

Deputy Mayor Pro-Tem Lafata monitored the present City Council Meeting.

**30. Adjourn.**

There be no additional business, the meeting was adjourned at 11:12 p.m.

\_\_\_\_\_  
E. Michael Simpson, Mayor

ATTEST:

\_\_\_\_\_  
Nan Parker, City Secretary